THE HON'BLE MR JUSTICE B.SESHASAYANA REDDY

WRIT PETITION NO : 12651 of 2005

01-02-2006

Between:

1. Nallappaishgari Mallanna S/o. Nallappaiah
   R/o. Kundirpi Vi. & Mandal, Anantapur District. And another.

..... PETITIONERS

AND

1 The District Panchayat Officer
Ananthapur District. And others.

.....RESPONDENTS

THE HON'BLE MR JUSTICE B.SESHASAYANA REDDY

WRIT PETITION NO : 12651 of 2005

O R D E R:

The petitioners claim that their ancestors planted tamarind trees in Survey No.252(1) of Kundirpi village and Mandal, Anantapur District, admeasuring Ac.2.40 cents, about 85 years ago and since then, they have been enjoying the usufructs of the said trees. It is their further case that the father of 1st petitioner and father-in-law of 2nd petitioner filed representations before the District Collector, Anantapur for grant of tree patta and their applications are pending consideration. Copies of the said representations have been placed on record.

Apprehending dispossession from the land in question, without following due process of law, the petitioners approached this Court with a prayer stated supra by invoking the jurisdiction under Article 226 of the Constitution of India.

The petitioners moved an application being W.P.M.P.No.16068 of 2005 seeking interim direction. This Court on 15.06.2005 while issuing Rule directed the respondents not to dispossess the petitioners from the land in question until further orders.

The 3rd respondent filed W.V.M.P.No. 1915 of 2005 with a prayer to vacate the interim order dated 15-06-2005 passed in W.P.M.P.No. 16068 of 2005.

When the vacate stay petition came up for consideration, with the consent of both the parties, the writ petition itself is taken up for hearing.

Learned counsel for the petitioner submitted that the members of their family have been in possession and enjoyment of the land in question about 85 years and therefore, they are entitled for grant of patta for the said land. He refers the representations submitted by the father of the 1st petitioner. Further submission has been made that the father of the 1st petitioner and the father-in-law of the 2nd petitioner raised tamarind trees in the land in question and they have been harvesting the usufructs of the land for over number of years.

The learned counsel for the 3rd respondent submitted that the land in survey No.252-1 is a Government Poramboke and so the petitioners have no right to harvest the usufructs of the tamarind trees.

The father of the 1st petitionerand the father-in-law of the 2nd petitioner submitted representations for grant of tree pattas. It is their contention that they have been enjoying the usufructs of the trees and they sought for tree-patta. But no patta has been granted in their favour so far.

In the writ affidavit, the petitioners asserted that the members of their

family have been in possession of the land in question. What is sought for by the father of the 1st petitioner and the father-in-law of the 2nd petitioner in their earlier representation is grant of tree-patta. Now the writ petitioners claim grant of patta for the land itself. Admittedly, no tree patta has been granted in favour of the petitioners as on this day. Therefore, the petitioners cannot resist the action of the 3rd respondent in putting usufructs of the tamarind tree to auction.

The writ petition is devoid of merits and is accordingly dismissed. No costs. However, this order does not preclude the petitioners to pursue their remedies in the Civil Court, if they are so entitled.

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01-02-2006

Mjl/*